

22a

Garrison - Brewer

1 Q Is there any other writing on this page
2 that is not your writing?

3 A No.

4 Q Okay. The next page, it says this is
5 Mr. Heath again?

6 A Yes, it is.

7 Q Well, is all of the writing on this
8 page yours?

9 A Yes, besides the circle, I don't think
10 I circled it.

11 Q I was going to ask you --

12 A I can't recall that I circled it, no.

13 Q Okay. And the violation is because he
14 was late for work, missed one load?

15 A Yes.

16 Q Okay. Let's just for a second go back
17 to Mr. Smith on the very first page; I believe you
18 testified -- and if you didn't, correct me now,
19 please -- that you circled the second warning here?

20 A No, I didn't say that.

21 Q Okay, did you circle that?

22 A No, I didn't.

23 Q Okay. Do you have any idea who would?

24 A No, I didn't.

25 Q How about the next page, first warning?

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Garrison - Brewer

1 A I can ask.

2 Q So even if you could spare him, you
3 can't assign him over there?

4 A No.

5 Q Okay. Can you ever require the
6 catchers in your crew to work more than eight hours in
7 a day?

8 A Can you be more specific?

9 Q I tell you what, not at this time. Let
10 me try to make myself more clear because I want you to
11 understand the questions.

12 A Excuse me.

13 Q Sure.

14 A I do understand the question.

15 Q Oh, okay.

16 A But what I'm saying by being more
17 specific, it's not an eight-hour job.

18 Q No, I understand that.

19 A Okay.

20 Q But if you want somebody to work beyond
21 what they would normally work, my question is can you
22 require people to do that? Do you have the authority
23 to do that?

24 A I have authority for to get my job done
25 that day; it may be more than eight hours.

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Garrison - Brewer

1 like you to do, please, is to take a look at page 9 of
2 the document. And, by the way, when you get there --
3 go ahead, I'll let you get there first.

4 A I'm there. Yes.

5 Q The title of the document says
6 Agreement between Mountaire of Delmarva, Selbyville,
7 and the International Brotherhood of Teamsters Local
8 355.

9 A Yes.

10 Q And it has an effective date of
11 December 16, '01, through December 18, '04?

12 A Yes.

13 Q And if you look at the back of the
14 document, hold on to page 9 for me, if you would, look
15 near the back of the document, the next to last page.

16 A Yes.

17 Q It says Schedule B.

18 A Yes.

19 Q And it talks about catchers.

20 A Yes.

21 Q Those are the catchers that would have
22 been in your crew? Let me maybe try to state it
23 another way. We talked earlier that the catchers who
24 worked in your crew --

25 A Yes.

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Garrison - Brewer

1 Q -- were members of a labor union.
2 A Yes.
3 Q The Teamsters Local 355 --
4 A Yes.
5 Q -- this group? Are the catchers that
6 are listed or the catcher job classification that's
7 listed in Schedule B, would those be some of the
8 catchers who worked for you?
9 A Yes.
10 Q In other words, this contract covers
11 the catchers?
12 A Oh, yes, yes.
13 Q It covers catchers, that's what I'm
14 trying to get at.
15 A Yes, okay.
16 Q It also covers the forklift operators?
17 A Yes.
18 Q And it also covers live haul truck
19 drivers?
20 A Yes.
21 Q Okay. Now go back to page 9, if you
22 would, for me, and look at Article 10, Section 1.
23 A Yes.
24 Q This talks about a complaint of
25 grievance or a dispute which arises out of the

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A00420

Garrison - Brewer

1 application or performance of the provisions of this
2 contract. Do you see where I am?

3 A Yes.

4 Q Shall, in the first instance, be taken
5 up with the aggrieved employee or employees, who shall
6 first take the matter up with the shop steward.

7 A Yes.

8 Q Who in turn will take the grievance up
9 to the foreman in charge. If one of your crew members
10 had a grievance or a complaint about this contract
11 being followed, would that person take that grievance
12 up with you, in the first place, or with the shop
13 steward?

14 A He would mention it to me, yes.

15 Q Okay, okay, you are the person covered
16 in the first step of the grievance procedure which is
17 set out in the contract, okay, thank you.

18 A Yes.

19 MR. BREWER: Now, I'd like this packet
20 marked as Number 7.

21 (Garrison Exhibit 7, marked for
22 identification.)

23 BY MR. BREWER:

24 Q Mr. Garrison, in front of you is a
25 document marked Exhibit 7 to your deposition.

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Garrison - Brewer

1 A Yes.

2 Q If I go down on the lower left-hand
3 portion of the page, I see names written with numbers.

4 A Yes.

5 Q And again is that the drivers?

6 A Yes, it is.

7 Q And the amount of birds on each truck?

8 A Yes.

9 Q And again, on the lower right-hand
10 portion of the page, I see names written.

11 A Yeah.

12 Q Are those also the names of your
13 catchers?

14 A Yes.

15 Q Okay. Now, what I would like you to
16 try to explain to me, please, is if you look at the
17 first page that you had, your crew caught 38,600
18 birds, right?

19 A Yes.

20 Q And on the second, at the Char-Lee
21 farm, they caught 52,101 birds, correct?

22 A Yes.

23 Q The mileage from wherever it's
24 measured, which I understand you don't know, is 18
25 miles on the first page, correct?

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A00422

Garrison - Brewer

1 A Yes.

2 Q And Harry's the driver who was broken
3 down?

4 A Right.

5 Q Okay, thank you, that clears that up
6 for me. I think we're done with this. Okay.

7 The catchers get paid by the thousand,
8 do they not; it's a piece-work basis?

9 A Yes.

10 Q That's what the contract, the previous
11 exhibit we talked about, shows?

12 A Yes.

13 Q You as a crew leader, you got paid a
14 salary, did you not?

15 A Yes, I did.

16 Q Okay. Do you know approximately how
17 much a catcher makes during the course of the year?

18 A Be specific for me.

19 Q All right. How much would a catcher
20 who's basically working every day and so forth and so
21 on, how much would they normally expect to make during
22 the course of a year, do you have any idea? I mean
23 you were a catcher, that's why I'm asking.

24 A Maybe 20,000 a year.

25 Q Okay.

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Garrison - Brewer

1 A Roughly.

2 Q And as a crew chief, sir, how much did
3 you make?

4 A Roughly 40, 35.

5 Q Okay, I mean we have the records to
6 show, I'm just asking you approximately. I believe
7 you mentioned that you filled out the time sheets for
8 the catchers --

9 A Yes.

10 Q -- correct? Every day?

11 A Yes.

12 Q Catchers on your crew, you filled that
13 out every day?

14 A Yes.

15 Q Did you fill out any time sheet for
16 yourself?

17 A We was getting paid by the thousand.
18 When I had to catch, yes, I did.

19 Q No, no, when you became salary --

20 A Oh, no, no.

21 Q -- there was no time record kept of
22 your time?

23 A No, I didn't do it.

24 Q No, right. And do you know of any
25 record that was kept of your time?

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A00424

Garrison - Brewer

1 Q Well, no, but I mean when you received
2 this memo --

3 A Yeah, I understand, yes.

4 Q -- you understand that the company
5 didn't want you catching or operating the forklift?

6 A Yes.

7 Q Right.

8 MR. MARTIN: I'm going to object to the
9 form of that question as stated. But go ahead.

10 BY MR. BREWER:

11 Q And if you weren't doing these things,
12 you'd obviously have more time available to you to be
13 doing the things that we talked about earlier, making
14 sure the birds are being caught properly, and pens
15 were going right, and the growers, and all of those
16 things, correct?

17 A Let me say this: It was my job, my
18 responsibility to get the chickens in the plant.

19 Q That's correct.

20 A That was part of my job.

21 Q We understand that.

22 A And so that's what I was doing.

23 Q Correct. But my point is when you got
24 this memo, you were told that they didn't want you to
25 be doing these things so that you could have more time

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Garrison - Brewer

1 to get that job done, get the chickens to the plant?

2 A The job got done even if I was doing
3 these things.

4 Q Okay. The employees who worked for
5 you, the catchers, they don't evaluate themselves like
6 you did, do they?

7 A No.

8 Q Okay. Do you evaluate them at all?

9 A No, I don't.

10 Q Okay.

11 MR. BREWER: Let me give you this.

12 (Garrison Exhibit 9, marked for
13 identification.)

14 BY MR. BREWER:

15 Q The document in front of you, sir,
16 which is Number 9 --

17 A Yes.

18 Q -- Exhibit 9 to your deposition, have
19 you seen this before?

20 A Yes, I have.

21 Q If you look at the bottom of one of the
22 pages, it will talk about salary benefits,
23 orientation.

24 A Yes.

25 Q Does this list, without going through

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Garrison - Brewer

1 MR. BREWER: Let's have this marked as
2 Number 10.

3 (Garrison Exhibit 10, marked for
4 identification.)

5 BY MR. BREWER:

6 Q Just take a look at that and tell me if
7 you have ever seen that before. Do you know what this
8 is?

9 A No, I haven't.

10 Q If I told you that this was the
11 benefits that the members of Local Union 355 had,
12 including your crew members, would there be any reason
13 for you to disagree with me?

14 A I didn't see one of them, I haven't
15 seen one of them.

16 Q I understand you haven't seen this, I
17 understand.

18 A No, I would remember if I did.

19 Q But if I suggest to you that these are
20 the benefits that the members, the crew, the
21 catchers --

22 A Yes.

23 Q -- the people that work for you had as
24 part of 355, would you have any reason to disbelieve
25 me?

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A00427

Garrison - Brewer

1 MR. MARTIN: I'm going to object to
2 that question. He has already stated he is not
3 familiar with this document.

4 MR. BREWER: Okay, that's fine, that's
5 fair enough.

6 BY MR. BREWER:

7 Q Next, sir, let's go to this document,
8 this may be the best thing to do here.

9 MR. BREWER: This is a document that we
10 have prepared, make this Number 11.

11 (Garrison Exhibit 11, marked for
12 identification.)

13 BY MR. MARTIN:

14 Q This is a document we prepared, and I'm
15 going to try to go through this with you. If you can
16 answer the questions, that's fine; if you can't, just
17 let me know that you can't.

18 A Yes.

19 Q Catchers who worked for you --

20 A Yes.

21 Q -- over on the left-hand column of this
22 document it talks about their vacation, one week after
23 one year, two weeks after three years, and so forth.

24 A Yes.

25 Q Does that seem accurate to you?

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Garrison - Brewer

1 A Yes.

2 Q All right. And the salaried, it's two
3 weeks after one year, three weeks after five, is that
4 accurate when you were salaried, is that the vacation
5 you were entitled to --

6 A No.

7 Q -- as a crew leader?

8 A No.

9 Q It's not?

10 A No.

11 Q All right. LTD, which stands for
12 long-term disability --

13 A Yes.

14 Q -- it's one-half of the salary for five
15 years for the hourly people, and after 90 days for the
16 salaried people it's 60 percent of the salary until
17 age 65 until totally disabled; were you aware that was
18 a benefit you had?

19 A I can't quote on that, I don't know. I
20 mean just -- I don't know.

21 Q Well, let's do the same thing on STD,
22 which is short-term disability; you have no idea what
23 your benefit was --

24 A No.

25 Q -- as a salaried crew leader?

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Garrison - Brewer

1 Q I'm sorry, I put the document away,
2 what are you referring to, sir?

3 A For the salary thing, it says three
4 weeks.

5 Q I'm sorry, salaried for what now?

6 A For the salary thing, it says three
7 weeks for five years, yeah.

8 Q So the vacation then that's listed here
9 for the salaried is correct?

10 A Salary, right, yeah.

11 Q Okay. And the vacation for the hourly
12 that's listed there is correct?

13 A Yes.

14 Q Okay, thanks for clearing that up.

15 A I'm sorry.

16 Q That's all right. Let's see, you also
17 receive as a crew leader an allowance for the van --

18 A Yes.

19 Q -- for your van, isn't that true?

20 A Yes.

21 Q And how much did you get for that?

22 A It will be 235.

23 O \$235?

24 A Yes.

25 Q How often did you get that?

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A00430

Garrison - Brewer

1 A Once a week.

2 Q So you get \$235 a week for your van?

3 A Yes.

4 Q For 52 weeks of the year?

5 A Yes.

6 Q And what was that supposed to cover?

7 A It's supposed to cover my fuel and my
8 expenses.

9 Q And your expenses?

10 A Yes.

11 Q For maintaining the vehicle?

12 A Yes.

13 MR. BREWER: Can I have the next
14 document which is 12 marked for identification?
15 (Garrison Exhibit 12, marked for
16 identification.)

17 BY MR. BREWER:

18 Q Now again, sir, what I'd ask you to do
19 is just take a look at this. I'm going to go through
20 a couple of things and if you know the answer, please
21 tell me; if you don't know, you can just tell me you
22 don't know.

23 A Okay.

24 Q This memo was dated, by the way, in the
25 upper right-hand corner March 27, '01 --

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A00431

Garrison - Brewer

1 crew leader's vacation, was based on your 52 week
2 average?

3 A Yes.

4 Q Okay. They weren't paid on an hourly
5 basis?

6 A No.

7 Q Holidays for the crew leaders were
8 calculated at \$15 per hour for eight-hour days?

9 A Yes.

10 Q Okay, a crew leader did not receive
11 catching pay when working with a short crew, correct?

12 A Yes.

13 Q The catchers are eligible for overtime
14 pay?

15 A Yes.

16 Q And of course the crew leaders were
17 not. It says crew leaders are to list daily catcher
18 names and head count on daily time sheets, is that
19 what you were referring to earlier when we --

20 A Yes.

21 Q -- mentioned those gentlemen, that's
22 what you were supposed to do?

23 A Yes.

24 Q It says crew leaders are eligible for
25 monthly and an annual bonus, is that correct?

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A00432

Garrison - Brewer

1 A Yes.

2 Q You were eligible for that, weren't
3 you?

4 A Yes.

5 Q And the catchers who worked for you
6 were not, were they?

7 A No.

8 Q The rest deals with the live haul
9 drivers and the forklift drivers, we don't need to get
10 into those.

11

12 MR. BREWER: Mark this, please.

13 (Garrison Exhibit 13, marked for
14 identification.)

15 BY MR. BREWER:

16 Q Mr. Garrison, this is a level of
17 benefit levels --

18 A Yes.

19 Q -- that have been given, bonus levels
20 that have been given to crew chiefs --

21 A Yes.

22 Q -- which we already know the catchers
23 are not entitled to. If you go up at the top of the
24 year 2001, I see Joseph Garrison is listed.

25 A Yes.

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A00433

Garrison - Brewer

1 Q And you earned a performance bonus of
2 \$309.05 for that month?

3 A Yes.

4 Q And so that we can sort of expedite
5 this, since I'm told the office closes at 3:00 here,
6 if we go out through the year, we'll see that you
7 earned in 2001 a total of \$2,282.98 for your year-end
8 bonus in that year, correct?

9 A Yes.

10 Q And what is that based on, sir? How do
11 you go about getting the bonus?

12 A Based on your DOAs and your head count,
13 and farm damage.

14 Q That's all?

15 A Yes.

16 Q Only those three?

17 A Only those three.

18 Q So if you were supposed to catch let's
19 say 30,000 chickens, and you were supposed to do that
20 in 7 hours and it took you 10 hours, that wouldn't
21 count?

22 A No, got nothing to do with that.

23 Q Just DOAs and everything else?

24 A Yes.

25 Q So it was your responsibility to make

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A00434

Garrison - Brewer

1 sure those things didn't happen?

2 A Yes.

3 Q Now, the bonus, it says processing
4 level three, that benefit is for supervisory people,
5 isn't that right?

6 A Yes.

7 Q Okay. Now, if we go to the next year,
8 in 2002 the bonus benefit that's available for
9 supervisory employees, your name is listed again. And
10 for 2002, if I'm doing this correctly, I see that you
11 made \$902.69 --

12 A Yes.

13 Q -- in the form of bonuses? And then in
14 the year 2003, you received it looks like \$1657?

15 A Yes.

16 Q Okay. And, again, the same would be
17 for 2004, the bonus amounts are there. So these are
18 bonuses that you received pursuant to the company's
19 bonus plans --

20 A Yes.

21 Q -- for salaried supervisory employees?

22 A Yes.

23 Q And you got that bonus? The catchers
24 who worked for you did not get this, did they?

25 A No.

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A00435

Garrison - Brewer

1 Q Now, in addition to these monthly
2 bonuses, you also got an annual bonus, did you not?

3 A A yearly bonus, you're talking about?

4 Q A yearly bonus, right.

5 A Twice.

6 Q But I mean you did get those bonuses?

7 A Yes, I did.

8 Q The annual bonus is basically based on
9 how the plant did, correct --

10 A Yes.

11 Q -- over the course of the year?

12 A Yes.

13 Q The monthly bonuses are based on what
14 you mentioned, the DOAs and things like that?

15 A Yes.

16 Q So in addition to these monthly
17 bonuses, you also got an annual bonus --

18 A Yes.

19 Q -- as a crew leader?

20 A Yes.

21 Q That's part of the supervisory benefit?

22 A Yes.

23 Q Supervisory bonus thing?

24 A Yes.

25 Q And you got that twice, you said?

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A00436

Garrison - Brewer

1 A Only twice.

2 Q Only twice in four years; 50 percent.

3 (Garrison Exhibit 14, marked for
4 identification.)

5 BY MR. BREWER:

6 Q On Number 14, you will see some writing
7 in the upper left-hand corner that was done before
8 this, that is my handwriting, just to clarify things.
9 Did you receive this memo, sir?

10 A Yes, I did.

11 Q And it's a mandatory meeting for all
12 management which says includes crew leaders, correct?

13 A Yes.

14 Q Did you attend that meeting?

15 A Yes, I did.

16 Q Okay. The company has Christmas
17 parties, are you aware of that basically?

18 A Yes.

19 Q Do they have one for the hourly people?

20 A No.

21 Q No? Did they have one for the salaried
22 people?

23 A Yes.

24 Q Have you been invited to a party?

25 A Yes.

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Garrison - Brewer

1 Q Have you gone?

2 A Yes.

3 Q You have?

4 (Garrison Exhibit 15, marked for
5 identification.)

6 BY MR. BREWER:

7 Q This is the 2003 supervisory Christmas
8 dinner?

9 A Yes.

10 Q Under Mr. Lynch, the Joe Garrison
11 that's reflected, is that you?

12 A Yes, it is.

13 Q Did you go to this Christmas party?

14 A Yes, I did.

15 Q Take a quick look at the names on the
16 list and see if you can tell me if there's anyone here
17 who is not a supervisor.

18 A No.

19 Q Okay. The next page is the Christmas
20 dinner for 2002, which apparently was held at the
21 Holiday Inn in Ocean City.

22 A Yes.

23 Q It says 2002, it's 2001 I guess up
24 here. Did you attend that meeting also?

25 A Yes, I did.

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A00438

Garrison - Brewer

1 Q You went to that party?

2 A Yes.

3 Q The next page is a list for the 2001
4 Christmas dinner invitation?

5 A Yes.

6 Q Again, under Mr. Lynch, your name, Joe
7 Garrison, is that you?

8 A Yes, it is.

9 Q And did you go to that supervisory
10 Christmas party?

11 A Yes, I did.

12 Q Is there anybody here on this list that
13 you can tell me is not a salaried supervisor?

14 A No, no.

15 Q Okay. Did you have a good time, by the
16 way?

17 A Yes, I did.

18 Q Good, all right. Now --

19 MR. MARTIN: Excuse me, I should have
20 had him plead the 5th in Mr. Lynch's presence here.

21 BY MR. BREWER:

22 Q Okay, now, we have talked about this, I
23 just want to be sure: On your crew, you have seven
24 catchers and a forklift operator?

25 A Yes.

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Garrison - Brewer

1 Q You also carry sometimes an extra
2 catcher, do you not?

3 A Yes.

4 Q And the reason you carry the extra
5 catcher is so people can be given a day off?

6 A Not a day off, but a break.

7 Q A break?

8 A Yes.

9 Q When you say a break, what do you mean?

10 A One guy might sit down, take a break.
11 You know, his hands hurt, sometimes their hands get
12 hurt.

13 Q Oh, I see.

14 A You know, and then he'll fill in.

15 Q Okay.

16 A That's all.

17 Q And do you rotate, do you rotate that
18 person?

19 A Yes.

20 Q So, for example, on one day if I were a
21 member of your crew, I might be the extra man to be
22 used to rotate, and the next day it might be somebody
23 else?

24 A Sometime I do it that way.

25 Q How did you do it?

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A00440

Garrison - Brewer

1 A Got you.

2 Q If you go to paragraph 26, please,
3 which is on the next page.

4 A Yes.

5 Q It speaks to, in paragraph 26th, it
6 says the defendant, which again is the company,
7 followed and enforced and continued to follow and
8 enforce a corporate policy and practice of partial day
9 deduction in that any partial time taken off from
10 normal working hours by any of the plaintiffs, such as
11 yourself, okay, other than established holidays was
12 deducted from their pay. All right, let's stop at
13 that point.

14 A All right.

15 Q Can you tell me, this is a partial day,
16 this is if you're going to take off a half a day,
17 shall we say, okay?

18 A Yes.

19 Q You need to take off a half a day, and
20 it's not a holiday and it's not a sick day.

21 A Right.

22 Q Is it your testimony that you do not
23 receive your full salary for that week if you take
24 half a day off?

25 A No.

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A00441

Garrison - Brewer

1 Q That's not your testimony?

2 A No.

3 Q You do receive your full salary if you
4 take a half a day off?

5 A If I have to go to the doctor or
6 something like that, yes.

7 Q You get your full salary?

8 A Yes.

9 Q Okay. And if you have to do something
10 else, if it's not the doctor, if it's something else,
11 if you take any less than a full day off, your salary
12 for the week remains the same, does it not? Your
13 paycheck for the two weeks that you get paid remains
14 the same?

15 A Yes, yes.

16 Q Thank you. Okay. Let's see, let's go
17 to the next one which would be paragraph 27 of the
18 Complaint. This speaks to, and you can read it, I
19 won't read it into the record, it's part of the
20 record, this says that you would receive a reduction
21 in the amount of your compensation because of
22 violations in the quantity of the work performed.

23 Was your salary ever reduced because of
24 the quantity of the work you performed?

25 A I'm trying to think. What are you on,

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A00442

Garrison - Brewer

1 forced to use your personal automobiles for pick-up,
2 transport, and so forth?

3 A Yes.

4 Q I'll let you take a minute and read
5 that, if you would, I just have a couple questions
6 about that.

7 A Okay.

8 Q Okay? I think you mentioned to us you
9 received a payment every week for your vehicle which
10 covers your full expenses, correct?

11 A Yes.

12 Q And the last number you gave me was
13 what, I forget?

14 A 235.

15 Q 235?

16 A Yes.

17 Q Do you know if it's more now or not?

18 A I'm not there.

19 Q Well, I understand you're not, I was
20 just asking if you do know?

21 A No, I don't know.

22 Q The 235, when did you get that, in
23 2004?

24 A Yes, I did.

25 Q Was it somewhat less the year before?

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A00443

Garrison - Brewer

1 A I can't recall. I know it was in 2004.

2 Q What I'm trying to get at is it
3 increases?

4 A Yes.

5 Q It increases every year?

6 A It increases not every year.

7 Q Okay, not every year?

8 A No.

9 Q But it does increase, okay. Now, when
10 it comes to the vehicle; who chooses what vehicle to
11 buy? If you're going to go out and buy a vehicle that
12 you're going to use in work --

13 A I do.

14 Q -- you choose what vehicle you buy,
15 right?

16 A Yes.

17 Q The kind of vehicle you can buy, the
18 color?

19 A Yes.

20 Q You choose all that?

21 A Yes.

22 Q Whether you want leather or not,
23 whether you want automatic windows or roll up, all of
24 those decisions are made by you?

25 A Yes.

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A00444

Garrison - Brewer

1 Q And that's what you use?

2 A Yes.

3 Q Okay, that's fine. Now, the next item,
4 and this is really just for purposes of the record,
5 the Complaint says -- and I don't expect you to know
6 anything about this; if you do, that's fine, if you
7 don't, that's also fine -- the Complaint says in
8 paragraph -- mark this.

9 (Garrison Exhibit 16, marked for
10 identification.)

11 BY MR. BREWER:

12 Q The Complaint says that we were put on
13 notice by your counsel, Mr. Martin, by a letter dated
14 February 27, 2004 and, if I'm not mistaken, isn't
15 that close to the day that you wrote Mr. Martin's name
16 down on your time sheet? The record will speak for
17 itself. And it says we have continued such policies.
18 Have you seen this document that's in front of you
19 now?

20 A No.

21 Q I didn't expect you to see it, okay.
22 This is a letter from me to Mr. Martin, responding to
23 his letter of February 27.

24 A Yes.

25 Q Dated March 5. Let's see. Paragraph

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A00445

Garrison - Brewer

1 34 of the Complaint says that when the defendant
2 learned of plaintiff's intentions to seek counsel, we
3 immediately retaliated against plaintiffs, threatened
4 plaintiffs with termination of their employment if
5 they continued to pursue, okay?

6 A Yes.

7 Q Now, first of all, I want you to tell
8 me when this occurred; what time are we talking about
9 here?

10 A I don't know what time. You're on
11 paragraph 34, right?

12 Q I'm on paragraph 34. Mr. Martin wrote
13 a letter to the company on February 27th, I responded
14 on March 5.

15 A I don't know exactly what time it was.

16 Q Was it in February, can you tell me?
17 You may not be able to tell me the exact date, sir;
18 can you tell me the month?

19 A I can't recall the month.

20 Q You can't even recall the month?

21 A No, I can't.

22 Q Okay, all right. Who is the one who
23 retaliated against you and threatened you with
24 termination?

25 A Al Z.

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Garrison - Brewer

1 Q Al Z.

2 (Whereupon, there was a discussion held
3 off the record.)

4 BY MR. BREWER:

5 Q We're talking about Mr. Al Z. is the
6 person who threatened you?

7 A Yes.

8 Q What did Mr. Al Z. say to you, sir?

9 A Well, he came out on the farm and
10 issued me this letter, saying that if I don't make
11 them guys sit down and take a half-hour lunch, I would
12 be terminated.

13 Q And he did this after you filed the
14 lawsuit?

15 A Yes.

16 Q Well, let's talk about that for a
17 minute, Mr. Garrison. You are aware, are you not,
18 that the catchers, the people who worked for you,
19 filed a lawsuit claiming that they were entitled to
20 some overtime compensation, correct?

21 A Yes.

22 Q You know that?

23 A Yes.

24 Q All right. And you know the reason for
25 their claim was that the time sheet that you, as the

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A00447

Garrison - Brewer

1 crew chief, crew leader, filled out, had an automatic
2 deduction of one-half an hour for lunch, right?

3 A Yes.

4 Q And as a practical matter, the people
5 weren't taking that half-an-hour for lunch, were they?

6 A Yes.

7 Q They were taking the half-hour for
8 lunch?

9 A Well, yes, because if we waiting on a
10 truck, we still taking the half-hour lunch.

11 Q Well, the lawsuit was settled on the
12 basis that the people were working through their lunch
13 and were never getting the half-hour paid lunch; are
14 you aware of that?

15 A Yes, I am.

16 Q You're aware of that?

17 A Yes.

18 Q And isn't that what Mr. Al Z. made sure
19 that you and every other crew leader understood, that
20 these people are in fact to take time off for one-half
21 hour for lunch, they're not to work through lunch?

22 A I understood that.

23 Q You understood that?

24 A Yes, I did.

25 Q All right. So when Mr. Al Z. reminded

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A00448

Garrison - Brewer

1 you of that, you took that as a threat because --

2 A Yes, I did, because he said it -- the
3 reason why I took that as a threat because he said --
4 actually he told it on himself, he said it's not a
5 threat. I mean it --

6 Q Okay.

7 A So that's telling me -- what it's
8 telling me?

9 Q Well, I don't know.

10 A Okay. Good question.

11 Q I don't know. What it would tell you
12 and what it would tell me might be different things.
13 But you don't know when this is?

14 A I can't recall the month, no, I can't.

15 Q So you don't know if it was before the
16 lawsuit or after?

17 A No; it was after the lawsuit, yes.

18 Q It was after the lawsuit?

19 A Yes.

20 Q So this occurred then in June, after
21 June?

22 A Approximately.

23 MR. MARTIN: All right, let me
24 interpose an objection.

25 MR. BREWER: Sure.

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Garrison - Brewer

1 MR. MARTIN: You keep mentioning the
2 lawsuit. As you well understand, there was
3 correspondence prior to actually filing suit.

4 MR. BREWER: Yes.

5 MR. MARTIN: You and I understand that,
6 I'm not sure Mr. Garrison does.

7 MR. BREWER: Okay, I'll be more than
8 happy to try to clear that up.

9 BY MR. BREWER:

10 Q What your counsel is saying is that in
11 February, February 27th of '04, he wrote a letter to
12 the company saying that he thought that you were not
13 being properly compensated.

14 On March 5, I responded on behalf of
15 the company, saying you were being properly
16 compensated; you were supervisory and exempt under the
17 Fair Labor Standards Act, okay? The lawsuit, this
18 litigation, was filed on June 18, 2004, okay?

19 A Yes.

20 Q My question to you, sir, is in a time
21 frame, you're claiming Mr. Al Z. threatened you --

22 A Yes.

23 Q -- with loss of your job, as it says in
24 this Complaint, okay?

25 A Yes.

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A00450

Garrison - Brewer

1 Q It says when the defendant learned of
2 plaintiff's intentions to seek counsel, we immediately
3 retaliated and threatened plaintiffs; that's what this
4 says.

5 A Yes.

6 Q Okay. Now I want you to tell me when
7 that was, because that's important.

8 A Right off the hand, I don't know exact
9 time or month, I just don't know right offhand.

10 Q So you can't tell me whether it was in
11 February?

12 A I know it was said.

13 Q Okay, but you can't tell me whether it
14 was February?

15 A No, I can't.

16 Q Or March?

17 A No, I can't.

18 Q Or April?

19 A No, I can't.

20 Q Or May, or June?

21 A No.

22 Q But you know it was threatened?

23 A Yes.

24 Q All right. And where did that occur?

25 A On the farm.

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A00451

Garrison - Brewer

1 Q Which farm?

2 A I was to -- I'm trying to think of the
3 name of the farm. I know where I was at. What's the
4 name of that farm? I can't think of the name of the
5 farm. I know it's on a farm.

6 Q You took Mr. Al Z.'s comments
7 seriously, did you not?

8 A Yeah.

9 Q I assume you did.

10 A Of course.

11 Q Yeah. But you don't know when it
12 happened, and you can't tell me where it happened?

13 A I can't think of the name of the farm.

14 Q Okay.

15 A I can carry you to the farm, but I
16 can't think of the name of the farm.

17 Q But how many farms are there in --

18 A I know that one, but I just can't think
19 of the name of the farm. I know it was in Westover,
20 out there to the landfill, I can't think of the name
21 of the farm.

22 Q So the location of the farm is where?

23 A Is like you're going to the landfill
24 on -- I'm trying to think, it's --

25 Q On Route 20?

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A00452

Garrison - Brewer

1 A It's in Maryland.
2 Q In Maryland?
3 A I can't think of the name of the farm,
4 man.
5 Q Okay. Was anybody else present?
6 A David Nuse.
7 Q He was also present?
8 A Yes.
9 Q Did Mr. Nuse say anything to you?
10 A No.
11 Q He didn't say anything?
12 A Al Z. done the talking.
13 Q So it was just you, Mr. Nuse, and
14 Mr. Al Z.?
15 A Yes.
16 Q No one else was present?
17 A No.
18 Q Okay. Did anybody else ever threaten
19 you with termination?
20 A No.
21 Q And this occurred only one time?
22 A Yes.
23 Q All right. Did anybody threaten to
24 retaliate against you? Because it says that they did.
25 A Be -- can you be specific with that?

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A00453

Garrison - Brewer

1 Q Well, all I'm reading is what's been
2 alleged in the Complaint; it said we immediately
3 retaliated against you. Did anything bad happen to
4 you after, has anything bad happened to you outside of
5 what you just told me?

6 A No, not bad, no. No.

7 Q Okay. So what we have then is the
8 threat that you have just described?

9 A Yes.

10 Q Okay. Now, the next paragraph talks
11 about receiving the final warning before termination;
12 is that the warning that you referred to about making
13 sure that the catchers received a 30-minute lunch
14 break?

15 A Yes.

16 Q That's what that refers to?

17 A Yes.

18 Q So you and all other crew leaders were
19 given that same warning?

20 A Yes. Yes.

21 Q At the same time?

22 A That, I don't know.

23 Q All right. Let me ask you this: After
24 the catcher lawsuit was disposed of, did the people on
25 your crew always take a half-an-hour for lunch, or did

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A00454

Garrison - Brewer

1 they sometimes work through their lunch?

2 A We always took a lunch.

3 Q You always took a lunch?

4 A Yes.

5 Q Let me just ask this question this way,
6 Mr. Garrison, because this is interesting: Is it your
7 testimony that the people on your crew from the time
8 you became a crew leader always took a half-an-hour
9 lunch each and every day they worked?

10 MR. MARTIN: I'm going to object to the
11 question. You can go ahead and answer, though.

12 BY MR. BREWER:

13 Q That you never worked through lunch?

14 A We always ate.

15 Q Listen to my question. Did you and
16 your crew always take one half hour out, stop working,
17 stop working for one-half hour, and eat lunch?

18 A Yes, we did.

19 Q Always?

20 A We always ate.

21 Q You always took the half-an-hour? I'm
22 not saying you always ate.

23 A We always -- it might have been 35
24 minutes, could have been 40 minutes, but we always
25 took a lunch.

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A00455

Garrison - Brewer

1 Q But you always took at least a
2 half-an-hour, maybe sometimes more, stopped working
3 and ate lunch?

4 A Yes.

5 Q And you never worked through lunch?

6 MR. MARTIN: Same objection.

7 BY MR. BREWER:

8 Q Okay.

9 A It's according on -- it's according on
10 what shift that I'm on. Because if I only have -- if
11 I'm on a 2:00 o'clock in the afternoon shift, if I
12 only have three loads, you know, you're done before
13 you even have lunch, so no on that deal. It according
14 to what shift I was on.

15 You asking me a question that's not
16 available because I could be on a different shift; and
17 if you on a different shift, if you don't got but like
18 four loads or five loads, the time you get them, it is
19 lunch.

20 Q Okay. Well, then, let me ask you this:
21 If you're telling me, which I understand you to be
22 telling me, that your people, with the exception of
23 the time you have just mentioned now, were always
24 taking 30 or 40 minutes lunch, and you were told if
25 the people don't take 30 or 40 minutes lunch you're

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A00456

Garrison - Brewer

1 going to be terminated, why would that be threatening
2 to you? Your people were taking their lunch.

3 A Because it's a lawsuit that they did,
4 is that what you're saying?

5 Q No, what I'm asking you is in paragraph
6 35 --

7 A I know what you're saying.

8 Q -- it says you received verbal
9 harassment and/or were issued a final warning before
10 termination in an attempt to threaten plaintiffs; I
11 want to ask you the final warning, is that the final
12 warning that you and all the other crew leaders got --

13 A Yes.

14 Q -- for making sure your people took
15 one-half-an-hour lunch?

16 A Yes.

17 Q That's the one we're referring to?

18 A That's it.

19 Q And crew leaders who were not part of
20 this lawsuit also got that letter, did they not?

21 A Not --

22 MR. MARTIN: I'm sorry, letter, what
23 letter?

24 BY MR. BREWER:

25 Q The warning, the final warning.

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A00457

Garrison - Brewer

1 A I got the letter.

2 Q You got the letter?

3 A Not the catchers.

4 Q No, no, I'm saying the crew leaders --

5 A Right.

6 Q -- they all got them?

7 A Yes.

8 Q Even people who are not part of this
9 lawsuit that we're here today about?

10 MR. MARTIN: Objection; he has no way
11 of knowing that.

12 THE WITNESS: No, no, no.

13 MR. BREWER: Well, he knows --

14 THE WITNESS: No, no.

15 BY MR. BREWER:

16 Q So you're telling me it's only the
17 people who are listed here that got that final
18 warning, is that your testimony?

19 A All the crew leaders, yes, they did.

20 Q All the crew leaders?

21 A Yes.

22 Q Okay. I believe I was asking you about
23 the final warning.

24 A Yes.

25 Q And you said you felt threatened by it.

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A00458

Garrison - Brewer

1 A Uh-huh.

2 MR. MARTIN: The answer is yes, right?

3 THE WITNESS: Yes.

4 BY MR. BREWER:

5 Q And my question is I don't understand
6 why you would have felt threatened if, as you tell me,
7 your people were always taking at least a half-an-hour
8 off for lunch.

9 A Because how he was telling me, that's
10 how. Ain't got nothing to do with my people, had
11 something to do with how he's telling me, his actions.

12 Q All right. Okay, let's move on. The
13 next paragraph talks about many of the plaintiffs have
14 been cornered by management personnel and questioned
15 regarding their discussions with counsel, which would
16 be Mr. Martin; have you ever been cornered by anybody
17 from management?

18 A No.

19 Q No?

20 A No.

21 Q Okay, so it doesn't apply to you. Next
22 paragraph says that apparently there was a meeting
23 between the plaintiffs and counsel on a Saturday
24 morning, and that plaintiffs recognized vehicle or
25 vehicles owned or operated by the defendant's upper

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Garrison - Brewer

1 Q What time?

2 A I'm thinking it was 9:00 o'clock, I
3 think.

4 Q Now, did you recognize a vehicle owned
5 by the defendant's upper management circling the
6 parking lot?

7 A Yes.

8 Q Did you see that?

9 A Yes.

10 Q Who was driving the vehicle?

11 A Phil Owens.

12 Q Phil Owens was driving the vehicle?

13 A Yes.

14 Q And you saw him circling in the parking
15 lot?

16 A Yes.

17 Q Now, what makes you think it was about
18 your lawsuit?

19 A I don't know, good question.

20 Q This is prior to Mr. Martin's letter,
21 isn't it?

22 A Right.

23 Q Mr. Owens had no idea anything was
24 going on?

25 A I don't know that.

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A00460

Garrison - Brewer

1 Q Well, it's prior to Mr. Martin's
2 letter?

3 A Yes.

4 Q So what you see is Mr. Owens driving
5 around --

6 A Yes.

7 Q -- at a diner that is open to the
8 public? People can come in there and have breakfast,
9 anybody?

10 A Yes.

11 Q Okay. So what you see is him driving
12 around, and that's what you're referring to here?

13 A Yes.

14 Q You're sure it was Mr. Owens?

15 A I think it was Mr. Owens, yes.

16 Q Is that the only time that this is
17 referring to?

18 A Yes.

19 Q Okay. What kind of car did you see
20 Mr. Owens driving?

21 A I think it was a gray car.

22 Q What kind?

23 A Ford, Mountaire Ford.

24 Q A gray Mountaire Ford?

25 A Yes.

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A00461